

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW  
OF THE STATE OF MONTANA

In the matter of the amendment of ARM )	NOTICE OF PROPOSED
17.38.204 pertaining to maximum )	AMENDMENT
organic chemical contaminant levels )	
)	(PUBLIC WATER AND SEWAGE
)	SYSTEM REQUIREMENTS)
)	
)	(NO PUBLIC HEARING
)	CONTEMPLATED)

TO: All Concerned Persons

1. On December 13, 2010, the Board of Environmental Review proposes to amend the above-stated rule.

2. The board will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact Elois Johnson, Paralegal, no later than 5:00 p.m., November 22, 2010, to advise us of the nature of the accommodation that you need. Please contact Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail [ejohnson@mt.gov](mailto:ejohnson@mt.gov).

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

17.38.204 MAXIMUM ORGANIC CHEMICAL CONTAMINANT LEVELS

(1) The board adopts and incorporates by reference 40 CFR 141.61(a), 141.61(c), 141.64(a) and (a)(1), 141.64(b)(1)(i), and 141.64(b)(2)(i), which set forth maximum contaminant levels for synthetic organic contaminants, volatile organic contaminants, and disinfection byproducts.

AUTH: 75-6-103, MCA

IMP: 75-6-103, MCA

REASON: The proposed amendment is necessary to correct an error in adoption of the federal bromate and chlorite maximum contaminant levels. It is the intent of the Montana Legislature that Montana maintains primacy for the Safe Drinking Water Act within the state of Montana. In order for Montana to maintain primacy, it must adopt rules and regulations that are at least as stringent as the federal requirements. The current reference incorrectly refers to 40 CFR, Part 141.64(a)(1), which has the effect of not adopting 40 CFR, Part 141.64(a). The statement of necessity from that adoption process correctly indicated the intent and reason to adopt this standard. Because this language was previously part of a

public hearing and received no comment, no public hearing is proposed for this amendment in order to expedite correction of this error.

4. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail [ejohnson@mt.gov](mailto:ejohnson@mt.gov), no later than December 10, 2010. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. If persons who are directly affected by the proposed action wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments they have to Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail [ejohnson@mt.gov](mailto:ejohnson@mt.gov), no later than December 10, 2010.

6. If the board receives requests for a public hearing on the proposed action from either 10% or 25, whichever is less, of the persons who are directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be 94 based on the 684 community public water supply systems and 257 non-transient, non-community public water supply systems that may be subject to the disinfection byproducts requirements in Montana.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this entity. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supply; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; openpit mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Elois Johnson at Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2630; fax (406) 444-4386; or e-mail [ejohnson@mt.gov](mailto:ejohnson@mt.gov), or may be made by completing a request form at any rules hearing held by the board.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

/s/ James M. Madden

JAMES M. MADDEN

Rule Reviewer

BY: /s/ Joseph W. Russell

JOSEPH W. RUSSELL, M.P.H.,

Chairman

Certified to the Secretary of State, November 1, 2010.